

# In the Court of Appeals of the State of Alaska

**Fred Michael Esguerra Jr.,**  
Petitioner,

v.

**State of Alaska,**  
Respondent.

Court of Appeals No. **A-13819**

## **Order**

Motion to Withdraw as Attorney

Date of Order: **6/2/2021**

Trial Court Case No. **3AN-19-04854CR**

The Petitioner, Fred Michael Esguerra Jr., is represented by the Public Defender Agency. The Agency recently filed a motion asking this Court to appoint the Office of Public Advocacy to represent Mr. Esguerra. The Agency explains that it has a positional conflict of interest in its representation of Mr. Esguerra in this matter. The State has filed an opposition. The State essentially argues that this Court cannot make a decision on the Agency's motion because the Agency has not provided sufficient facts in its pleading.

Because the resolution of the Agency's motion will require fact finding, this Court must remand this case for a hearing.

Accordingly, **IT IS ORDERED:**

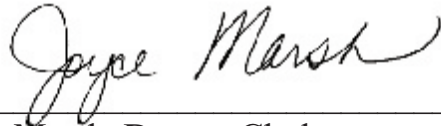
1. Mr. Esguerra's case is remanded to the superior court to determine whether the Public Defender Agency has a positional conflict of interest in this matter, and if so, to appoint the Office of Public Advocacy to represent Mr. Esguerra in this matter. If the Office of Public Advocacy is appointed, the superior court shall direct that office to promptly file an entry of appearance in this case.

2. The superior court's report on this matter shall be transmitted to this Court on or before June 23, 2021. At the request of the superior court, this deadline may be extended. In remanding this case, this Court acknowledges that under limitations imposed because of the current public health crisis, this hearing should be done telephonically if possible. If the hearing cannot be done telephonically, then the superior court shall inform this Court of this circumstance as soon as possible.

3. The due date of Mr. Esguerra's petition is vacated. The petition will be due 30 days after the superior court transmits its report to this Court.

Entered under the authority of Chief Judge Allard.

Clerk of the Appellate Courts

A handwritten signature in black ink, appearing to read "Joyce Marsh", written over a horizontal line.

Joyce Marsh, Deputy Clerk

cc: Judge Marston  
Trial Court Clerk  
Distribution:

Email:  
Goldstein, Melissa Hope, Public Defender  
Kaste, Matthew Ryan